

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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NARVAL NARCISSI,

05 CV 5710 (NG) (CLP)

Petitioner,

-against-

ORDER

**ROBERT ERCOLE, Superintendent of Green
Haven Correctional Facility,**

Respondent.

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GERSHON, United States District Judge:

Petitioner requests this court to stay and hold in abeyance his petition for a writ of habeas corpus pending state court proceedings on his unexhausted ineffective assistance of counsel claim. In *Rhines v. Weber*, the Supreme Court held that, while district courts have discretion to grant stays, “stay and abeyance should be available only in limited circumstances.” 544 U.S. 269, 277 (2005). Specifically, the Court held that “stay and abeyance is only appropriate” when: (1) the district court determines there was good cause for the petitioner’s failure to exhaust his claims first in state court; and (2) the unexhausted claims are not “plainly meritless.” *Id.*

Petitioner’s letter, dated October 8, 2006, does not demonstrate or even allege “good cause” for failing to exhaust his ineffective assistance of counsel claim in state court. Moreover, petitioner’s submission provides no details concerning the factual or legal basis for petitioner’s claim. Without this information, the court cannot grant a stay and abeyance or determine whether petitioner’s unexhausted claim has any merit. Therefore, petitioner is ordered to supplement his request by January 1, 2006, with papers showing: (1) good cause for failure to exhaust his effective

assistance of counsel claim; and (2) that the new claim is not plainly meritless. Respondent shall file a response to petitioner's additional submission within 30 days of its filing.

SO ORDERED.

NINA GERSHON
United States District Judge

Dated: Brooklyn, New York
October , 2006